

U.S. Application No. 10/672,737, filed September 26, 2003
Attorney Docket No. 14828US02
Amendment dated May 25, 2007

In Response to Office Action mailed January 25, 2007

REMARKS

Claims 1-27 are pending. Claims 1-27 stand rejected.

Claims 1, 4-24 and 27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 4,638,356 (“Frezza”). Applicants respectfully traverse the rejection as set forth below.

Claim 1 is set forth below as a courtesy to the Examiner.

A system for preventing unauthorized access to a network device, comprising:

a headend coupled to a communications network; and
a network device deployed in a home environment and communicatively coupled to the communications network via the headend,

wherein the headend is adapted to determine whether a request to access the network device is authorized.

To maintain an anticipation rejection, each and every element must be described in Frezza. Applicants respectfully submit that Frezza does not describe each and every element as set forth in claim 1. For example, Frezza does not describe at least “a network device deployed in a home environment and communicatively coupled to the communications network via the headend” as set forth in claim 1.

In the Office Action, it is alleged that these elements are described in Frezza at col. 1, lines 25-40. See Office Action at page 3.

Frezza at col. 1, lines 25-40 does not describe a network device deployed in a *home environment*. Since Frezza at col. 1, lines 25-40 does not describe a network device deployed in a *home environment*, the rejection under a 35 U.S.C. § 102(b) cannot be maintained.

Furthermore, the attention of the Examiner is respectfully drawn to the recitation that, with respect to the network device deployed in a home environment, “the headend is adapted to determine whether a request to access the network device is authorized” as set forth in claim 1.

Even assuming, *for the sake of argument only*, that the “source node” described in Frezza at

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col. 1, lines 25-40, Frezza at col. 1, lines 25-40 is the network device deployed in a home environment. The alleged headend is not determining whether a request to access the “source node” is authorized. No device is requesting access to the “source node” - the alleged network device deployed in a home environment.

Accordingly, assuming, *for the sake of argument only*, that the Examiner is alleging that the “source node” is the network device deployed in a home environment, then Frezza at col. 1, lines 25-40 does not describe a headend adapted to determine whether a request to access the “source node” is authorized.

Since Frezza does not describe each and every element as set forth in claim 1, it would be improper to maintain the anticipation rejection.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 102(b) be withdrawn with respect to claim 1 and its rejected dependent claims (i.e., claims 4-16).

In order to expedite prosecution so that at least the same or similar arguments can be made with respect to claims 17 and 21 as are being made with respect to claim 1, as originally filed, Applicants have amended claims 17 and 21 to further clarify the first device and the first network device, respectively.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 102(b) be withdrawn with respect to claims 17 and 21 and their rejected dependent claims (i.e., claims 18-20, 22-24 and 27).

Claims 2, 3, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Frezza in view of United States Patent Publication No. 2003/0126608 A1 (“Safadi”). Applicants respectfully traverse the rejection as set forth below.

It is respectfully submitted that, in view of the above-discussed teaching deficiencies of Frezza, that a *prima facie* case of obviousness as not been presented.

“The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no

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obligation to submit evidence of nonobviousness." M.P.E.P. § 2142 at page 2100-125 (Rev. 5, Aug. 2006)(italics in the original).

For at least the above reasons, it is respectfully submitted that the obviousness rejection cannot be maintained and that Applicants are under no obligation to submit evidence of nonobviousness.

It is therefore respectfully requested that the rejection under 35 U.S.C. § 103(a) be withdrawn with respect to claims 2, 3, 25 and 26.

In view of at least the foregoing, it is respectfully submitted that the pending claims 1-27 are in condition for allowance. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: May 25, 2007

Respectfully submitted,

/Michael T. Cruz/
Michael T. Cruz
Reg. No. 44,636

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, Suite 3400
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100